

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DEREK ALLEN RASH,

Plaintiff,

Case No.: 1:18-cv-1192

v.

HONORABLE PAUL L. MALONEY

ROBERT CROMPTON, et al.,

Defendants.

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**ORDER ADOPTING MAGISTRATE JUDGE'S
REPORT AND RECOMMENDATION**

The Court has reviewed the Report and Recommendation filed by United States Magistrate Judge Phillip J. Green in this action (ECF No. 43). The Report and Recommendation mailed to the Plaintiff was returned to the Court marked “return to sender - not deliverable as addressed - unable to forward”. There are further markings on the envelope that read, “paroled/discharged” and “forwarding time expired”. (ECF No. 44)

Even though the Plaintiff has not received a copy of the Report and Recommendation, Plaintiff has been properly served under the Federal Rules of Civil Procedure. As required by statute, the magistrate judge filed the Report and Recommendation with the Court and a copy was mailed to the Plaintiff at his last known address. *See* 28 U.S.C. § 636(b)(1)(C) (“the magistrate judge shall file his proposed findings and recommendations under subparagraph (B) with the court and a copy shall forthwith be mailed to all parties.”). Upon placing the Report and Recommendation in the mail to the Plaintiff's last known address, service was complete. Fed. R. Civ. P. 5(b)(2)(C). Plaintiff has a continuing obligation to apprise the Court of his current address. *See* W.D. Mich.

L.Civ.R. 41.1 (“Failure of a plaintiff to keep the Court apprised of his current address shall be grounds for dismissal for want of prosecution.”).

After being served with a Report and Recommendation issued by a Magistrate Judge, a party has fourteen days to file written objections to the proposed findings and recommendations. 28 U.S.C. § 636(b)(1)(C); Fed. R. Civ. P. 72(b); *United States v. Sullivan*, 431 F.3d 976, 984 (6th Cir. 2005). Failure to file an objection results in a waiver of the issue and the issue cannot be appealed. *Id.* See also *Thomas v. Arn*, 474 U.S. 140, 155 (1985) (upholding the Sixth Circuit's practice). No objections have been filed to date.

Although the Plaintiff's failure to file objections is a sufficient reason to adopt the Report and Recommendation, this Court has reviewed the merits of the report and finds the magistrate judge's reasoning and conclusions sound.

Accordingly, **IT IS HEREBY ORDERED:**

1. The Report and Recommendation (ECF No. 43) is **ADOPTED** as the Court's opinion;
2. Plaintiff's motion to deny Defendant's motion for summary judgment (ECF No. 35) is **DENIED**.
3. Defendant's motion for summary judgment (ECF No. 37) is **GRANTED**;
4. The plaintiff's complaint is **DISMISSED**.

This action is terminated.

Dated: September 12, 2019

/s/ Paul L. Maloney
Paul L. Maloney
United States District Judge